United Nations A/HRC/39/G/3

General Assembly

Distr.: General
16 August 2018

Original: English

Human Rights Council
Thirty-ninth session
10–28 September 2018
Agenda item 6
Universal periodic review

Note verbale dated 30 July 2018 from the Permanent Mission of Armenia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

The Permanent Mission of the Republic of Armenia to the United Nations Office and other international organizations in Geneva presents its compliments to the Office of the United Nations High Commissioner for Human Rights, and has the honour to submit herewith a letter of the Ambassador and Permanent Representative of the Republic of Armenia to the United Nations Office at Geneva, Charles Aznavour, addressed to the President of the Human Rights Council regarding the content of the national report of Azerbaijan submitted to the Working Group on the Universal Periodic Review (A/HRC/WG.6/30/AZE/1) and the language used in it, which violates the principles and objectives of the universal periodic review as described in the annex to Human Rights Council resolution 5/1 (see annex).

The Permanent Mission kindly requests the Office of the High Commissioner to circulate the present note verbale and the annex thereto as a document of the thirty-ninth session of the Human Rights Council, under agenda item 6.

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Annex to the note verbale dated 30 July 2018 from the Permanent Mission of Armenia to the United Nations Office at Geneva addressed to the Office of the United Nations High Commissioner for Human Rights

Letter of the Ambassador and Permanent Representative of the Republic of Armenia to the United Nations Office and other international organizations at Geneva addressed to the President of the Human Rights Council

I am writing to draw your attention to the content of Azerbaijan's UPR National report and the language used in it, which violates the principles and objectives of the Universal Periodic Review (HRC resolution 5/1).

Since the first cycle of the Universal Periodic Review, Azerbaijan has been systematically violating the UPR procedure by trying to distort the essence of the review which should "be conducted in non-politicized manner" and based on "the UN Charter, the Universal Declaration of Human Rights and Human rights instruments to which a State is party". Initially, these violations amounted to banal interruption of the statements of the representatives of Armenia and rejection of any recommendations made by my country (most of which were based on the recommendations of the UN monitoring bodies). Now Azerbaijan uses its National report to advance its disinformation and propaganda regarding the Nagorno-Karabakh issue through biased and distorted interpretations, thus trying to divert the international community's attention from the continuously deteriorating human rights situation in Azerbaijan.

Azerbaijan systematically spreads lies throughout the international community by trying to present as if Nagorno-Karabakh is an "uncontrolled territory" without law and order. The reality is quite the opposite: unlike Azerbaijan, Nagorno-Karabakh (the formal name is "The Republic of Artsakh") has a democratically elected Government and Parliament, a transparent and accountable judicial system, a vibrant civil society, independent Human Rights Defender and free media.

Since independence, the people of Artsakh have consecutively conducted free and fair elections, and have changed their leaders in a democratic manner — something that the hereditary regime in Azerbaijan has failed to provide to its own citizens.

I hereby would like to address some of the misleading provisions contained in the National Report of Azerbaijan.

Firstly, through misinterpretation of the meaning of the conflict, Azerbaijan aims to devaluate the right of the people of Nagorno-Karabakh to self-determination, which Azerbaijan falsely presents as an issue of restoration of territorial integrity. The right of peoples to self-determination is a binding and universally recognized fundamental norm of the international law; its implementation derives from the international commitments and obligations assumed by states, first of all the UN Charter and the two Covenants. Moreover, any aggressive military response of a state to the peaceful aspiration of peoples to exercise their right to self-determination only legitimizes such aspiration and deprives the aggressor of any claim to authority over such people.

Secondly, the international community, including the United Nations, recognizes that the only internationally mandated format for the Nagorno-Karabakh conflict settlement is the OSCE Minsk Group Co-chairmanship. Azerbaijan's attempts to undermine it and get unilateral concessions by the threat of use of force, remains the main obstacle for the peaceful negotiated settlement based on mutual compromises.

The UN Security Council resolutions to which Azerbaijan makes excessive references to recognize Armenians of Nagorno-Karabakh as direct party to the conflict. Attempts to present Armenia as an "aggressor" by referring to the UN SC resolutions are completely false and constitute a blunt manipulation of their content. Those resolutions

contain only calls to Armenia to exert its influence on Armenians of Nagorno-Karabakh with the aim of resolving the conflict. Despite all efforts of Armenia and international mediators the conflict still remained unresolved due to continued use of force and threat to use of force by Azerbaijan against people of Nagorno-Karabakh.

Concerning the GA resolution 62/243 adopted in 2008, one should note that this is a non-binding resolution supported only by 39 member states. 154 countries were either against, abstained or didn't participate in the voting and most importantly, the Co-Chairs of the OSCE Minsk Group — France, Russia and the USA — voted against that resolution and noted that the resolution would hamper a balanced and long-lasting process of the Nagorno-Karabakh conflict settlement — a fact, which points at the negative consequences of this resolution.

I want to draw your attention to one very important factor of statistics presented by Azerbaijan. If one would believe official statistics of Azerbaijan, the number of its displaced population of early 90s is constantly growing, which indicates that in almost quarter of century this country has violated their human rights and fundamental freedoms. In fact, the effective integration of refugees needs to be pursued as a key component of a successful refugee protection regime. Azerbaijani government applies a misleading methodology of accounting of IDPs and refugees. Children and grandchildren of IDPs and refugees are also registered as IDPs (according to the UPR National report these figure reached 1,200,000). This principle contradicts to the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2).

The hereditary regime in Azerbaijan has false claims to cultures of other people, which ever lived on its current territory and which have been forcefully expelled or assimilated; When those claims seemed particularly futile even for Azerbaijani authorities, they did not shy away to destroy cultural heritage of other people by rather violent means. To name just one documented example: the Armenian medieval cemetery in Jugha (Julfa) was deliberately destroyed by the Azerbaijani authorities in the time of peace — to remove any traces of indigenous Armenian population of these lands. As a result of these barbaric actions, today there are literally no traces left of the once flourishing Armenian civilization in Nakhijevan.

Regarding the "gross violations", which Azerbaijan falsely attributes to Armenia, I would like to remind about the large-scale military offensive of Azerbaijan in April 2016, which was the most dangerous escalation of the conflict since the signing of the trilateral infinite cease-fire agreement between Azerbaijan, Nagorno-Karabakh and Armenia in 1994. The Azerbaijani aggression in April 2016 was accompanied by gross and horrific violations of the international humanitarian and human rights law, including atrocities against peaceful civilian population and ISIS style crimes, such as beheading of Armenian civilians and military, cutting their ears and noses and humiliating the corpses. From the very beginning of the Azerbaijani offensive, civilian infrastructures and population in Artsakh (Nagorno-Karabakh) — including Armenian children and the elderly — were intentionally and indiscriminately targeted by Azerbaijani army. Armenia and Artsakh have called upon the international organizations to visit Artsakh and assess the situation and the graveness of the human rights violations perpetrated by Azerbaijani army during their April 2016 aggression. Contrary to this position, Azerbaijan failed to give permission for and refused such access to the representatives of international organizations.

I would like to provide some information regarding the criminal case of Azerbaijani citizens Shahbaz Guliev and Dilgam Askerov — saboteurs who illegally crossed into Nagorno-Karabakh Republic on 29 June 2014, armed with weapons and ammunition. They were detained by the law-enforcing authorities of the NKR under charges of illegal crossing of border, illegal possession of arms, espionage, armed kidnapping, etc. We feel obliged to remind that a third member of the group Hasan Hasanov murdered Mr. Sarkis Abrahamyan, kidnapped and murdered 17 years old boy Smbat Tsakanyan and gravely wounded Ms. Karine Davtyan. Hasanov was killed after showing armed resistance to the law-enforcers of NKR. The Azerbaijani murderers were subsequently apprehended and on 29 December 2014, the First Instance General Jurisdiction Court of the Republic of Nagorno-Karabakh sentenced Guliyev and Askerov to prison terms. I would like to note that the perpetrators

were provided with defence lawyers and faced a fair trial in accordance with Criminal Code of Artsakh (Nagorno-Karabakh). The trial was attended by the representatives of the ICRC.

When referring to the judgment of the *Chiragov and others v. Armenia*, one should not forget that together with this verdict — on the very same day (i.e. 16 June 2015) — the European Court of Human Rights made a similar decision on "*Sargsyan v. Azerbaijan*" which also related to the right to property of refugees and displaced persons as a result of the Nagorno-Karabakh conflict. In both Sargsyan's and Chiragov's judgment, the ECHR emphasized that "the involved parties are responsible for finding a political solution to the conflict and are looking forward to the outcome of negotiations on a peaceful settlement that can be the only way for a solution. As you can see, here too the Azerbaijani National report is misleading the international community by hiding important facts.

In the light of the above-mentioned, and taking into account the fact that during the presentation of the Azerbaijani National report at the second UPR cycle a number of procedural violations took place, including incorporation into the text of a contradictory footnote that has nothing to do with human rights and do not meet one of the key objective of the UPR ("the improvement of the human rights situation on the ground"), I very much hope that during the current third cycle presentation, the basic UPR principle of equal treatment of all States will be respected and thereby will contribute to strengthening the UPR credibility, as a cooperative intergovernmental mechanism.

Charles Aznavour
Ambassador, Permanent Representative